

United States Court of Appeals  
for the Fifth Circuit

\_\_\_\_\_  
No. 20-50654  
\_\_\_\_\_

FILED  
SEP - 4 2020  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY                       
DEPUTY CLERK

LINDA JANN LEWIS; MADISON LEE; ELLEN SWEETS; BENNY  
ALEXANDER; GEORGE MORGAN; VOTO LATINO; TEXAS STATE  
CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE  
ADVANCEMENT OF COLORED PEOPLE; TEXAS ALLIANCE FOR  
RETIRED AMERICANS,

*Plaintiffs—Appellees,*

*versus*

RUTH HUGHS, TEXAS SECRETARY OF STATE,

*Defendant—Appellant.*

\_\_\_\_\_  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:20-CV-577-OLG  
\_\_\_\_\_

Before DENNIS, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellees' opposed alternative motion to  
dismiss appeal as frivolous is DENIED.

IT IS ORDERED that Appellees' opposed motion for summary  
affirmance is GRANTED with respect to the district court's denial of

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Appellant's motion to dismiss on grounds of sovereign immunity. Under our cases, there are "at least two circumstances under which summary disposition is necessary and proper." *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The first are cases "where time is truly of the essence" because "important public policy issues are involved or . . . where rights delayed are rights denied." The second is where the position of the party seeking that relief is "clearly right as a matter of law so that there can be no substantial question as to the outcome of the case." *Id.*

Considering the parties' submissions and applicable law, particularly including this court's recent decision in *Texas Democratic Party v. Abbott*, 961 F.3d 389 (5th Cir. 2020), we are convinced that no substantial question exists in this matter with respect to whether the Texas Secretary of State bears a sufficient connection to the enforcement of the Texas Election Code's vote-by-mail provisions to satisfy *Ex parte Young*'s "some connection" requirement. *See Ex parte Young*, 209 U.S. 123, 157 (1908) (officer must have "some connection" with enforcement). In affirming the district court's determination that the Secretary of State is amenable to suit in this instance, however, we do not decide the merits of any claims made, or whether the requested injunctive relief is warranted. That assessment remains for the district court to consider on remand.